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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/026,835

12/27/2001

Robert E. Best JR.

BS01315

9850

38516 7590 02/15/2011

AT&T Legal Department - SZ

Attn: Patent Docketing

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EXAMINER

VAN HANDEL, MICHAEL P

ART UNIT

PAPER NUMBER

2424

MAIL DATE

DELIVERY MODE

02/15/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/026,835	Applicant(s) BEST ET AL.	
	Examiner MICHAEL VAN HANDEL	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 48-53, 58-60, 63 and 68-73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 48-53, 58-60, 63, 68-73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is responsive to an Amendment filed 12/03/2010. Claims **48-53, 58-60, 63, 68-73** are pending. Claims **48, 58, 62, 68-73** are amended. Claims **1-47, 54-57, 61, 62, 64-67, 74-77** are canceled. The examiner hereby withdraws the rejection of claims **68-73** under 35 USC 101, in light of the amendment.

Response to Arguments

2. Applicant's arguments regarding claims **48** and **58**, filed 12/03/2010 have been considered, but are moot in view of the new ground(s) of rejection.

3. Applicant's arguments regarding claim **68**, filed 12/03/2010, have been fully considered, but they are not persuasive.

Regarding claim **68**, the applicant argues that Sankaranarayan et al. does not teach determining which of the two or more conflicting actions was first triggered and selecting a first triggered action as a predominate action to resolve the two or more conflicting actions. The examiner respectfully disagrees. Applicant specifically argues that the examiner has misinterpreted Sankaranarayan's priority-based allocations with the selection of a first triggered action to resolve the two or more conflicting actions. Sankaranarayan et al. discloses a resource manager architecture for use in a TV-enabled computer system to manage tuner resources (col. 4, l. 54-67 & col. 5, l. 1-3, 49-55). Sankaranarayan et al. further discloses a situation where two activities wish to use one tuner. If a newly received activity request does not have a higher

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priority than an already received activity request for the tuner, it is rejected, because a single tuner cannot support both activities (col. 16, l. 21-55). Applicant argues that this is not choosing the first triggered action to resolve a conflict, but instead is selecting the existing activity, because it has a higher priority. The examiner respectfully disagrees. Sankaranarayan et al. discloses that where two activities wish to utilize the same resource, the system determines that the existing activity A1 has the highest priority and the new activity A2 seeking to be added has the lowest priority (col. 16, l. 30-32). The examiner interprets this as “determining which of the two or more conflicting actions was first triggered,” as currently claimed. Sankaranarayan et al. further discloses returning a notice that the activity A2 cannot be satisfied given the current allocation (col. 16, l. 43-48). The examiner interprets this as “selecting a first triggered action as a predominate action to resolve the two or more conflicting actions.” That is, regardless of the fact that the first activity has a higher priority, the system of Sankaranarayan et al. is choosing the first triggered action as the predominate action to resolve the conflicting actions. As such, the examiner maintains that the combination of Gutta I et al. and Sankaranarayan et al. teaches the determining which of the two or more conflicting actions was first triggered and selecting a first triggered action as a predominate action to resolve the two or more conflicting actions, as currently claimed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims **48, 52, 53, 58, 63, 68** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta et al. (Gutta et al. I hereinafter)(US 2002/0194586)(of record) in view of Sankaranarayan et al. (of record).

Referring to claim **48**, Gutta et al. I discloses a method, comprising:

- detecting a user in the vicinity of a television (p. 2, paragraph 17; p. 3, paragraph 34; & Figs. 1, 2);
- sending a presence indicator signal from a presence detector to a computer (p. 2, paragraphs 19, 20 & p. 3, paragraph 34);
- determining, by the computer, that two or more conflicting actions are to be taken based on the presence indicator signal and a source of the presence indicator signal (different user profiles are associated with each user in the vicinity and may contain conflicting recommendations)(p. 2, paragraph 21 & p. 3, paragraphs 30-32);
- selecting a predominate action to resolve the two or more conflicting actions (preferences of the different users may be weighted differently or weighted differently based on time of day)(p. 3, paragraphs 29-32); and
- sending the predominate action to the television (p. 3, paragraphs 27, 29-32).

Gutta I et al. further discloses recommending programs for tuning based on user's preferences and weighting different user's preferences differently. For example, if a daughter and father are watching TV and the daughter likes music programs, while the father does not, and the father likes cook-off broadcasts, while the daughter does not, the system may recommend the cook-off broadcast anyway if the father's preferences are more heavily weighted (p. 3, paragraph 30).

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Gutta I et al. does not specifically disclose determining which of the two or more conflicting actions was first triggered and selecting a first triggered action as a predominate action to resolve the two or more conflicting actions. Sankaranarayan et al. discloses a resource manager architecture for use in a TV-enabled computer system to manage tuner resources (col. 4, l. 54-67 & col. 5, l. 1-3, 49-55). Sankaranarayan et al. further discloses a situation where two activities wish to use one tuner. If newly received activity request does not have a higher priority than an already received activity request for the tuner, it is rejected, because a single tuner cannot support both activities (col. 16, l. 21-55). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Gutta I et al. to include resolving two conflicting actions in favor of the one first received, such as that taught by Sankaranarayan et al. in order to provide a better technique for managing resources and their allocation to different users (Sankaranarayan et al. col. 2, l. 1-3).

Referring to claim **52**, the combination of Gutta et al. I and Sankaranarayan et al. teaches the method according to claim 48, further comprising selecting a predominate user associated with at least one of the conflicting actions (Gutta et al. p. 3, paragraphs 29-32).

Referring to claim **53**, the combination of Gutta et al. I and Sankaranarayan et al. teaches the method according to claim 48, further comprising powering the television (Gutta et al. I p. 3, paragraph 33).

Referring to claim **58**, Gutta et al. I discloses a system, comprising:

- a processor executing instructions stored in memory (Fig. 1) that cause the processor to:

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- detect multiple users in the vicinity of a television (p. 2, paragraph 17; p. 3, paragraph 34; & Figs. 1, 2);
- send multiple presence indicator signals from a presence detector to a computer, with each presence indicator signal identifying a user's identity (p. 2, paragraphs 19, 20 & p. 3, paragraph 34);
- determine that two or more conflicting actions to be taken based on each user's identity and on a source of each presence indicator signal (different user profiles are associated with each user in the vicinity and may contain conflicting recommendations)(p. 2, paragraph 21 & p. 3, paragraphs 30-32);
- select a predominate action to resolve the two or more conflicting actions (preferences of the different users may be weighted differently or weighted differently based on time of day)(p. 3, paragraphs 29-32); and
- send the predominate action to the television (p. 3, paragraphs 27, 29-32).

Gutta I et al. further discloses recommending programs for tuning based on user's preferences and weighting different user's preferences differently. For example, if a daughter and father are watching TV and the daughter likes music programs, while the father does not, and the father likes cook-off broadcasts, while the daughter does not, the system may recommend the cook-off broadcast anyway if the father's preferences are more heavily weighted (p. 3, paragraph 30).

Gutta I et al. does not specifically disclose determining which of the two or more conflicting actions was first triggered and selecting a first triggered action as a predominate action to resolve the two or more conflicting actions. Sankaranarayan et al. discloses a resource manager architecture for use in a TV-enabled computer system to manage tuner resources (col. 4, l. 54-67

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& col. 5, l. 1-3, 49-55). Sankaranarayan et al. further discloses a situation where two activities wish to use one tuner. If newly received activity request does not have a higher priority than an already received activity request for the tuner, it is rejected, because a single tuner cannot support both activities (col. 16, l. 21-55). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Gutta I et al. to include resolving two conflicting actions in favor of the one first received, such as that taught by Sankaranarayan et al. in order to provide a better technique for managing resources and their allocation to different users (Sankaranarayan et al. col. 2, l. 1-3).

Referring to claim **63**, the combination of Gutta et al. I and Sankaranarayan et al. teaches the system according to claim 58, wherein the instructions further cause the processor to set a timer (Gutta et al. I p. 3, paragraph 33).

Referring to claim **68**, Gutta I et al. discloses a device storing processor executable instructions for performing a method, the method comprising:

- detecting multiple users in the vicinity of a television (p. 2, paragraph 17; p. 3, paragraph 34; & Figs. 1, 2);
- sending multiple presence indicator signals from a presence detector to a computer, with each presence indicator signal identifying a user's identity (p. 2, paragraphs 19, 20 & p. 3, paragraph 34);
- determining two or more conflicting actions are to be taken based on each user's identity and on a source of each presence indicator signal (different user profiles are associated with each user in the vicinity and may contain conflicting recommendations)(p. 2, paragraph 21 & p. 3, paragraphs 30-32);

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- selecting a predominate action to resolve the two or more conflicting actions (preferences of the different users may be weighted differently or weighted differently based on time of day)(p. 3, paragraphs 29-32); and
- sending the predominate action to the television (p. 3, paragraphs 27, 29-32).

Gutta I et al. further discloses recommending programs for tuning based on user's preferences and weighting different user's preferences differently. For example, if a daughter and father are watching TV and the daughter likes music programs, while the father does not, and the father likes cook-off broadcasts, while the daughter does not, the system may recommend the cook-off broadcast anyway if the father's preferences are more heavily weighted (p. 3, paragraph 30).

Gutta I et al. does not specifically disclose determining which of the two or more conflicting actions was first triggered and selecting a first triggered action as a predominate action to resolve the two or more conflicting actions. Sankaranarayan et al. discloses a resource manager architecture for use in a TV-enabled computer system to manage tuner resources (col. 4, l. 54-67 & col. 5, l. 1-3, 49-55). Sankaranarayan et al. further discloses a situation where two activities wish to use one tuner. If newly received activity request does not have a higher priority than an already received activity request for the tuner, it is rejected, because a single tuner cannot support both activities (col. 16, l. 21-55). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Gutta I et al. to include resolving two conflicting actions in favor of the one first received, such as that taught by Sankaranarayan et al. in order to provide a better technique for managing resources and their allocation to different users (Sankaranarayan et al. col. 2, l. 1-3).

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6. Claim **49, 50, 59, 60, 69-72** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta et al. I in view of Sankaranarayan et al., and further in view of Gutta et al. (Gutta et al. II hereinafter)(US 2002/0144259)(of record).

Referring to claims **49, 50, 59, 60, 69, and 70**, the combination of Gutta et al. I and Sankaranarayan et al. teaches the method/system/device according to claims 48, 58, and 68. The combination of Gutta et al. I and Sankaranarayan et al. further teaches displaying television program recommendations based on user profiles (Gutta et al. I p. 3, paragraphs 27, 29-30). The combination of Gutta et al. I and Sankaranarayan et al. does not specifically teach changing a channel associated with the television or changing a volume associated with the television. Gutta et al. II discloses an apparatus for monitoring for users in the vicinity of a media player and automatically controlling the media player in response to predefined events (p. 1, paragraph 5). Like in Gutta et al. I, Gutta et al. II discloses storing a number of user profiles containing different user preferences (p. 2, paragraph 19 & Fig. 2). These preferences can include muting, adjusting the volume, and changing the program channel (p. 1, paragraph 15). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the preferences in the user profiles in the combination of Gutta et al. I and Sankaranarayan et al. to include muting, adjusting the volume, or changing the program channel, such as that taught by Gutta et al. II in order to allow a user to conveniently adjust one or more settings in a desired manner (Gutta et al. II p. 1, paragraph 3).

Referring to claims **71 and 72**, the combination of Gutta I et al., Sankaranarayan et al., and Gutta II et al. teaches the computer readable media according to claim 69, further comprising

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instructions for querying to determine which of the conflicting actions are to be taken and for receiving a response to the query (Gutta et al. I p. 3, paragraphs 27, 29-32).

Referring to claim **73**, the combination of Gutta et al. I and Sankaranarayan et al. teaches the computer readable media according to claim 68, further comprising instructions for powering the television (Gutta et al. I p. 3, paragraph 33). The combination of Gutta et al. I and Sankaranarayan et al. further teaches that the entertainment system is used for audio-visual entertainment as well as audio entertainment (Gutta et al. I p. 1, paragraph 16). The combination of Gutta et al. I and Sankaranarayan et al. does not specifically teach that the television has stereo audio. Applicant's failure to adequately traverse the Examiner's taking of Official Notice (that it is notoriously well-known within the prior art to include stereo audio with a television) in the last Office Action is taken as an admission of the fact(s) noticed. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the audio output of the television of Gutta et al. I in the combination of Gutta et al. I and Sankaranarayan et al. to include stereo audio, such as that taught by the admitted prior art in order to provide the user with a better and more realistic sounding television experience.

7. Claim **51** is rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta et al. I in view of Sankaranarayan et al., further in view of Gutta et al. II, and still further in view of Robbins.

Referring to claim **51**, the combination of Gutta et al. I and Sankaranarayan et al. teaches the method according to claim 48. The combination of Gutta et al. I and Sankaranarayan et al. further teaches displaying television program recommendations based on user profiles (Gutta et

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al. I p. 3, paragraphs 27, 29-30). The combination of Gutta et al. I and Sankaranarayan et al. does not specifically teach retrieving weather and traffic information. Gutta et al. II discloses an apparatus for monitoring for users in the vicinity of a media player and automatically controlling the media player in response to predefined events (p. 1, paragraph 5). Like in Gutta et al. I, Gutta et al. II discloses storing a number of user profiles containing different user preferences (p. 2, paragraph 19 & Fig. 2). These preferences can include changing the program channel (p. 1, paragraph 15). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the preferences in the user profiles of Gutta et al. I to include changing the program channel, such as that taught by Gutta et al. II in order to allow a user to conveniently adjust one or more settings in a desired manner (Gutta et al. II p. 1, paragraph 3).

The combination of Gutta et al. I, Sankaranarayan et al., and Gutta et al. II does not specifically teach tuning to weather and traffic information. Robbins discloses an automatic tuning system for automatically tuning to a predetermined program (col. 3, l. 61-65). A user programs the television receiver to automatically tune to the channel at the appropriate time (col. 5, l. 42-50). Robbins further discloses that the channel can be tuned when displaying traffic and weather portions of a newscast (col. 5, l. 50-61). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Gutta et al. I, Sankaranarayan et al., and Gutta et al. II to include automatically tuning to a channel displaying traffic and weather portions of a newscast, such as that taught by Robbins in order to allow easy user programming for automatically tuning to a broadcast of a specific program (Robbins col. 3, l. 52-55).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MICHAEL VAN HANDEL** whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Van Handel/
Primary Examiner, Art Unit 2424

2/13/2011